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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,425	07/30/2003	Hubert Carl Burton JR.	21861/09003	7834
27530	7590	05/04/2005	EXAMINER	
NELSON MULLINS RILEY & SCARBOROUGH, LLP 1320 MAIN STREET, 17TH FLOOR COLUMBIA, SC 29201			SEMBER, THOMAS M	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/630,425	Applicant(s) HERBERT CARL BURTON, JR.	
	Examiner Thomas M. Sember	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-6, 9, 11-13, 15-18 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Panagiotou. Panagiotou discloses a light housing 12 for at least partially shielding a light source 24 from a viewer, comprising: a shield having a rear wall (as broadly claimed any side of the housing can be defined as "a rear wall" since "rear" can be any direction, thus the examiner properly construes the part of the housing shown near detail 13 in figure 3 as a rear wall) located between the light source and the viewer; wherein the rear wall has a top edge (19) and a bottom edge (20), and is formed to partially enclose the light source; and at least one attachment arm (pole attachment in figure 1) for attaching the shield to a fixed object.

Regarding claim 2, the shield is free of permanent attachment to the light source.

Regarding claim 3, the rear wall has a semi-circular shape.

Regarding claim 4, the shield further comprises at least one sidewall 14.

Regarding claim 5, the shield comprising two sidewalls 14, wherein the two sidewalls are curved and the rear wall has a semi-circular shape.

Regarding claim 6, the curved sidewalls extend from the semi-circular rear wall at substantially the same radius as the semi-circular rear wall so that the two curved sidewalls are contiguous with the semi-circular rear wall and together form a uniform semi-circular shape.

Regarding claim 9, the shield further comprises a top that is attached to the top edge and at least partially covers that portion of the shield, which encloses the light source.

Regarding claim 11, the attachment arm is attached to the shield at the bottom edge of the rear wall.

Regarding claim 12 the attachment arm is a unitary construction contiguous with the shield (regarding the limitation of "injection molding", applicant is reminded that disclosure of only a method of making the invention and the function may not be sufficient to support a product claim other than a product-by-process claim). Thus, since Panagiotou shows an attachment arm unitary with shield, the prior art reference of Panagiotou meets this claim.

Regarding claim 13, the attachment arm comprises one or more devices selected from the group consisting of glue, screws, clamps, staples, nails, stakes, screws, clamps, tie downs, Velcro®, tape, wire ties, buttons, snaps, weights, hooks, metal rods, or magnetic attachments.

Regarding claim 15, the attachment arm is made from a material selected from the group consisting of steel, stainless steel, aluminum alloys, iron alloys, thermoplastic polymers, thermoset polymers, and cellulosic materials.

Regarding claim 16, the rear wall is constructed from a material selected from the group consisting of metal, plastic, composite material, and cellulosic material.

Regarding claim 17, the rear wall 13 comprises a reflective material.

Regarding claim 18, the rear wall comprises louvers 40.

Regarding claim 20, Panagiotou discloses a method for at least partially shielding a light source from a viewer comprising providing a shield having a rear wall located between the light source and the viewer, wherein the rear wall has a top edge and a bottom edge, and is formed to partially enclose the light source, an optional top that is attached to the top edge and at least partially covers that portion of the shield which encloses the light source, and at least one attachment arm.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9, 11-13, 15-16 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kira. Kira discloses a light housing 10 for at least partially shielding a light source 42 from a viewer, comprising: a shield having a rear wall (as broadly claimed any side of the housing can be defined as "a rear wall" since "rear" can be any direction, thus the examiner properly construes the part of the housing shown near detail 18 in figure 1 as a rear wall) located between the light source and the viewer (wherein the rear wall has a top edge (extending to front of light near lens 16) and a

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bottom edge (12), and is formed to partially enclose the light source; and at least one attachment arm 26 for attaching the shield to a fixed object.

Regarding claim 2, the shield is free of permanent attachment to the light source.

Regarding claim 3, the rear wall has a semi-circular shape.

Regarding claim 4, the shield further comprises at least one sidewall 14.

Regarding claim 5, the shield comprising two sidewalls 14, wherein the two sidewalls are curved and the rear wall has a semi-circular shape.

Regarding claim 6, the curved sidewalls extend from the semi-circular rear wall at substantially the same radius as the semi-circular rear wall so that the two curved sidewalls are contiguous with the semi-circular rear wall and together form a uniform semi-circular shape.

Regarding claim 7, the shield further comprises an aperture 15 in the rear wall.

Regarding claim 8, the aperture is an arch-shaped opening that is contiguous with the bottom edge of the rear wall.

Regarding claim 9, the shield further comprises a top 13 that is attached to the top edge 16 and at least partially covers that portion of the shield, which encloses the light source.

Regarding claim 11, the attachment arm is attached to the shield at the bottom edge of the rear wall.

Regarding claim 12 the attachment arm is a unitary construction contiguous with the shield (regarding the limitation of "injection molding", applicant is reminded that

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disclosure of only a method of making the invention and the function may not be sufficient to support a product claim other than a product-by-process claim). Thus, since Kira shows attachment arm unitary with shield, the prior art reference of Kira meets this claim.

Regarding claim 13, the attachment arm comprises one or more devices selected from the group consisting of glue, screws, clamps, staples, nails, stakes, screws, clamps, tie downs, Velcro®, tape, wire ties, buttons, snaps, weights, hooks, metal rods, or magnetic attachments.

Regarding claim 15, the attachment arm is made from a material selected from the group consisting of steel, stainless steel, aluminum alloys, iron alloys, thermoplastic polymers, thermoset polymers, and cellulosic materials.

Regarding claim 16, the rear wall is constructed from a material selected from the group consisting of metal, plastic, composite material, and cellulosic material.

Regarding claim 20, Kira discloses a method for at least partially shielding a light source from a viewer comprising providing a shield having a rear wall located between the light source and the viewer, wherein the rear wall has a top edge and a bottom edge, and is formed to partially enclose the light source, an optional top that is attached to the top edge and at least partially covers that portion of the shield which encloses the light source, and at least one attachment arm.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kira in view of Chung '828. Kira discloses the claimed invention except for the teaching of a stake member attachment device. Chung '828 teaches a stake attachment member for quickly fixing the light fixture outdoors. Kira teaches an attachment member 26 for a light fixture used outdoors. It would have been obvious to one skilled in the art at the time the invention was made to substitute the stake attachment member of Chung '828 for the attachment member of Kira in order to quickly insert the light fixture of Kira in the ground or another fixed object.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Beadle, Waters'273 and Gordin disclose light fixtures which are similar to applicant's invention.



***Allowable Subject Matter***

7. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claim 19 is allowed.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Beadle, Waters'273 and Gordin disclose light fixtures which are similar to applicant's invention.

***Allowable Subject Matter***

10. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


11. Claim 19 is allowed.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas M. Sember whose telephone number is 571-272-2381. The examiner can normally be reached on M-F 8 A.M- 5.30 p.m. first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 703-305-4939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas M Sember  
Primary Examiner  
Art Unit 2875

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